IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3463 OF 2006
IN
FIRST APPEAL NO.618 OF 2007

The Oriental Insurance Co. Ltd. ...Applicant
Versus
Tajkhan Mumtaz Khan Pathan & Anr. ...Respondents

Shri R.D.Suryawanshi for the Applicant.
Shri M.B.Kotak for the Respondent No.1.

CORAM : ABHAY S.OKA, J.
DATED : FEBRUARY 28, 2007.

P.C.:

1. Heard Advocates appearing for the Applicant and the first Respondent. Considering the nature of challenge in the Appeal, the first Respondent will have to be permitted to withdraw a substantial amount without security. Considering the facts and circumstances of the case, Civil Application is disposed of by passing following order:

(i) There will be interim relief in terms of prayer clause (a). However, it is clarified that the original claimant will be free to execute clause 3 of the operative part of the impugned order as against the original Opponent No.1.

(ii) Out of the amount deposited by the Applicant, the learned Commissioner will permit the original claimants to withdraw a sum of Rs.1,50,000/- without furnishing any security.

(iii) The withdrawal of the said amount will be subject to final outcome of the Appeal.

(iv) The claimant is already permitted to withdraw a sum of Rs.50,000/- on furnishing adequate security. In addition to said sum of Rs.50,000/-, the claimant will be entitled to withdraw a further amount of Rs.75,000/- on furnishing adequate security. Rest of the amount shall be invested by the learned Commissioner in fixed deposit in any nationalised bank and fixed deposit shall be renewed from time to time till the final disposal of the Appeal.

(v) There will be no orders as to costs.

JUDGE